

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3660

Report Summary

(Annotated to include Judicial Council actions taken on July 7, 2004)

TO: Members of the Judicial Council

FROM: Ronald G. Overholt, Chief Deputy Director 415-865-4235
Tina Hansen, Director, Finance Division 415-865-7951
Stephen Nash, Assistant Director 415-865-7584

DATE: June 29, 2004

SUBJECT: Allocation of New Trial Court Funding Included in the Pending
FY 2004–2005 State Budget (Action Required)

Issue Statement

The Judicial Council has authority to approve trial court allocations. This report presents recommendations for the allocation of new funding in the pending state budget for FY 2004–2005.

Recommendation

AOC staff recommends that the Judicial Council:

1. Direct staff to pursue additional funding with the DOF for the full cost of FY 2004–2005 salaries and benefit increases as current year adjustments during FY 2004–2005.
2. Defer allocation of any funding provided in the Budget Act for salary and benefit needs of the trial courts pending further discussions with the DOF. If additional funding is not approved, staff will consider funding options and present a recommendation to the council at a future meeting.
3. Authorize allocation of funding included in the pending state budget for FY 2003–2004 increases to the courts consistent with the manner that the increases were identified in the Spring Proposal, as indicated in column A of Attachment 1.
4. Defer allocation of any funding for FY 2004–2005 retirement increases.

5. Direct staff to pursue with the DOF funding for all FY 2004–2005 retirement increase costs, and the additional FY 2003–2004 increases not included in the pending State Budget, as current year adjustments during FY 2004–2005.
6. Allocate funds for Increases in County Provided Services to those courts that have increases occurring in FY 2004–2005 that are included in the Spring Finance Proposal, as indicated in column B of Attachment 1.
7. Allocate \$1.438 million for increases in salaries and benefits for subordinate judicial officers that occurred in FY 2003–2004 as indicated in column C of Attachment 1.

The preceding recommendations were approved by the Judicial Council.

Rationale for Recommendation

Recommendation 1 and 2. Staff believe that it would not be equitable to allocate a lower level of funding to specific courts when it is acknowledged that a greater need for funding exists, and that the DOF has indicated that they are willing to consider additional funding during FY 2004–2005 for salary and benefit increases that will be implemented during that fiscal year. Allocation of these funds should wait until further discussions have occurred.

Recommendation 3-5. Staff believe that it would not be equitable to allocate the small amount of funding approved to specific courts for increases occurring in FY 2004–2005 when it is acknowledged by DOF that retirement increases occurring in that fiscal year are only partially met, and they have indicated their willingness to consider additional funding during FY 2004–2005 for retirement increases that will be implemented during that fiscal year. Allocation of these funds should wait until further discussions have occurred. While one of the alternatives is to prorate the pending funding for FY 2003–2004 increases to all of the courts that have reported cost increases to staff even though they are not included in the amounts pending, this is not recommended because this is an annual funding process and the DOF specifically approved increases for specific courts and will track those changes. Allocating a portion of this funding for unapproved increases will be problematic. Meanwhile, the DOF has agreed to consider the funding of outstanding retirement needs during FY 2004–2005, including these unfunded FY 2003–2004 increases.

Recommendation 6. Since the amount included in the pending State Budget incorporates all of the increases occurring in FY 2004–2005, as included in the requests by the courts, it seems reasonable to allocate these funds to those courts.

Recommendation 7. This is an automatic allocation that requires no detailed analysis by staff. The amount of funding provided was based on the number of subordinate judicial officers and would be allocated to the courts in that manner. The allocation is very straightforward.

Alternative Actions Considered

Recommendation 1 and 2. Two alternatives were considered.

1. Allocate all of the funding included in this program area to the courts consistent with the information that was submitted to DOF that justified the funding need.
2. Defer allocation of any funding provided in this program area pending further discussion with the DOF. If no additional funding is provided, staff will consider funding options and present recommendations to the council at a future meeting.

Recommendation 3-5. Three alternatives were considered:

1. In addition to the FY 2003–2004 funding, allocate the pending FY 2004–2005 approved retirement funding consistent with the court cost increases that had been provided as justification for the additional funding.
2. Defer allocation of any approved FY 2004–2005 funding provided in this program area pending further analysis with a recommendation to be made to the council at a later date. Staff would continue discussions with the DOF regarding funding of FY 2004–2005 retirement increases as current year adjustments.
3. Prorate the funding pending in the state budget among the courts with FY 2003–2004 increases (which would include additional funding for two courts that notified us of increases in December when staff updated the budget request). Each court would receive approximately 94.8 percent of their increase.

Recommendation 6. No alternatives other than that recommended were considered for this item.

Recommendation 7. No alternatives other than that recommended were considered for this item.

Comments from Interested Parties

Trial court budget allocation reports are not subject to the invitation to public comment requirement.

Implementation Requirements and Costs

No additional funds will be sought to implement the recommendations for the action items, other than where staff indicate that they will be working with DOF to

try to obtain additional funding during FY 2004–2005 for the full cost of salary and benefit and retirement increases.

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SUBJECT: Allocation of New Trial Court Funding Included in the Pending
FY 2004–2005 State Budget (Action Required)

Issue Statement

The Judicial Council has authority to approve trial court allocations. This report presents recommendations for the allocation of new funding in the pending state budget for FY 2004–2005.

Background

At its August 29, 2003 business meeting, the Judicial Council directed staff to prepare and submit to the State Department of Finance (DOF) budget change proposals (BCPs) on behalf of the trial courts in a number of program areas. The new incoming administration requested that updated information on the BCPs be provided to them before the publication of the FY 2004–2005 Governor’s Budget Proposal. Only two of the program areas were included for funding, in whole or part, in the Governor’s Budget Proposal. Administrative Office of the Courts (AOC) staff continued to update DOF staff on increases in costs in the BCPs as they became known. After lengthy discussions with DOF staff, the AOC, in late March, submitted several Spring Finance Proposals on the same program areas to the DOF. Funding in all of these program areas is currently pending in the State Budget.

The table on the following page indicates the amount requested for each BCP at different stages of the process and the funding approved for inclusion by the Governor. The last column displays the amounts pending in the Governor’s State Budget. Please note that in some cases, the actual need of the courts is higher than

what is represented in the Spring Finance Letter and Pending State Budget columns. These amounts represent what the DOF agreed to include in their funding recommendation. Each of the program areas for which funding is included in the pending State Budget Bill is described in more detail later in the report.

Status of FY 2004–2005 Trial Court Budget Change Proposals

| | Governor's Budget (January 10) (Requested amounts for FY 2003-04 only) | | Finance Letter Proposals | | Amount Included in the Pending State Budget |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|------------------|---------------------------------|-------------------|------------------------------------------------------------------------|
| Budget Change Proposal | Amount Requested | Approved | Amount Requested | Approved | |
| Salary and Benefits Needs of the Trial Courts | TBD | N/A | 21,051,000 | 21,051,000 | 21,051,000 |
| Court Staff Retirement | 23,820,000 | | 23,050,000 | 23,050,000 | 23,050,000 |
| Increased Charges for County Provided Services | 11,840,000 | 0 | 1,482,000 | 1,482,000 | 1,482,000 |
| Adjustments to Salaries of Subordinate Judicial Officers for FY 2003–2004 Increases | | | | 1,438,000 | 1,438,000 |
| Security NSIs, Retirement, and Other Benefits | 22,848,000 | 0 | 28,779,000 | 28,779,000 | 28,779,000 |
| Court Interpreters Program: Trial Court Staffing Benefits | 3,700,000 | 165,000 | | | 165,000 |
| Costs of Homicide Trials | 666,000 | 0 | 254,000 | 254,000 | 254,000 |
| Prisoner Hearing Costs | 3,761,000 | 2,556,000 | | | 2,556,000 |
| Court Staff Workers' Compensation Program Growth | 6,120,000 | 0 | | | 0 |
| Court Interpreters Workload Growth | 4,568,000 | 0 | | | 0 |
| Pay Parity – Unification | 3,549,000 | 0 | | | 0 |
| Pay Parity – Market Driven | 10,776,000 | 0 | | | 0 |
| Operating Expense - Postage | 827,000 | 0 | | | 0 |
| Total | 92,475,000 | 2,721,000 | 74,616,000 | 74,616,000 | 77,337,000 |

Allocation Items for Council Consideration (Action Required)

Salary and Benefit Needs of the Trial Courts

Based on information provided by the courts and communicated to the DOF before the Governor's May Revision was published, AOC staff indicated that there was a need in this area for increased funding of \$59.948 million. This amount included unfunded prior year negotiated salary increases (NSIs), the annualized

cost of FY 2003–2004 NSIs and Non-Salary Driven Health Premium Increases, and ratified NSIs and health premium increases for FY 2004–2005.

The pending State Budget proposes funding increases in the amount of \$21.051 million for FY 2003–2004 annualization costs for NSIs and health premium increases, and FY 2004–2005 ratified NSIs and health premium increases.

Because the actual need is greater than the amount included in the pending state budget, and because it is unclear why certain components were approved for funding and not others, staff recommends that allocation of this funding, if it should be included in the Budget Act, be deferred until later in the fiscal year. Additional analysis is needed to determine the most equitable method for allocating this funding among the courts.

In addition, the DOF has acknowledged that the actual need for salaries and benefits costs in FY 2004–2005 may be higher than budgeted. They have agreed that these items will be considered for funding as current year adjustments during the next fiscal year (just as staff salary increases are handled each year pursuant to budget control language).

Recommendation

AOC staff recommends that the Judicial Council:

- Direct staff to pursue additional funding with the DOF for the full cost of FY 2004–2005 salaries and benefit increases as current year adjustments during FY 2004–2005.
- Defer allocation of any funding provided in the Budget Act for Salary and Benefit Needs of the Trial Courts pending further discussions with the DOF. If additional funding is not approved, staff will consider funding options and present a recommendation to the council at a future meeting.

The preceding recommendation was approved by the Judicial Council.

Rationale for Recommendation

Staff believe that it would not be equitable to allocate a lower level of funding to specific courts when it is acknowledged that a greater need for funding exists, and that the DOF has indicated that they are willing to consider additional funding during FY 2004–2005 for salary and benefit increases that will be implemented during that fiscal year. Allocation of these funds should wait until further discussions have occurred.

Alternative Actions Considered

Two alternatives were considered:

1. Allocate all of the funding included in this program area to the courts consistent with the information that was submitted to DOF that justified the funding need.
2. Defer allocation of any funding provided in this program area pending further discussion with the DOF. If no additional funding is provided, staff will consider funding options and present recommendations to the council at a future meeting.

Court Staff Retirement

Similar to the previous item, AOC staff advised the DOF that the total need of the trial courts in the area of retirement was \$57.950 million. The \$23.051 million included in the pending state budget contains \$22.853 million for increases that would be effective in FY 2003–2004 and \$198,000 in increases that would be effective in FY 2004–2005. The majority of the funding that was not included in the pending State Budget -- \$32.150 million – is for increases that would be effective in FY 2004–2005. Two courts that already have augmentations included in the \$22.853 million have additional increases (in the amount of \$1.249 million) for FY 2003–2004 that are included in the \$32.150 million. Staff were notified of these increases at the time they requested updated information from the courts. This was not included in the augmentation proposed in the pending State Budget.

As indicated previously, if the funding is included in the Budget Act, staff recommend that the \$22.853 million representing the funding for increases in FY 2003–2004, be allocated to those courts that were included and identified in the Spring Proposal. Staff does not understand the specific reasons that the \$198,000 in FY 2004–2005 increases was approved, when the additional \$32.150 million was not. For this reason, staff recommends that allocation of the \$198,000 be deferred for the present.

The DOF has acknowledged that the costs of staff retirement in FY 2004–2005 have been only partially funded, and that this item will be considered for funding as a current year adjustment during fiscal year 2004-05.

Recommendation

AOC staff recommends that the Judicial Council:

- Authorize allocation of funding included in the pending state budget for FY 2003–2004 increases to the courts consistent with the manner that the increases were identified in the Spring Proposal, as indicated in column A of Attachment 1.
- Defer allocation of any funding for FY 2004–2005 retirement increases.
- Direct staff to pursue with the DOF funding for all FY 2004–2005 retirement increase costs, and the additional FY 2003–2004 increases not

included in the pending State Budget, as current year adjustments during FY 2004–2005.

The preceding recommendation was approved by the Judicial Council.

Rationale for the Recommendation

Staff believe that it would not be equitable to allocate the small amount of funding approved to specific courts for increases occurring in FY 2004–2005 when it is acknowledged by DOF that retirement increases occurring in that fiscal year are only partially met, and they have indicated their willingness to consider additional funding during FY 2004–2005 for retirement increases that will be implemented during that fiscal year. Allocation of these funds should wait until further discussions have occurred. While one of the alternatives is to prorate the pending funding for FY 2003–2004 increases to all of the courts that have reported cost increases to staff even though they are not included in the amounts pending, this is not recommended because this is an annual funding process and the DOF specifically approved increases for specific courts and will track those changes. Allocating a portion of this funding for unapproved increases will be problematic. Meanwhile, the DOF has agreed to consider the funding of outstanding retirement needs during FY 2004–2005, including these unfunded FY 2003–2004 increases.

Alternatives Actions Considered

Three alternatives were considered:

1. In addition to the FY 2003–2004 funding discussed previously, allocate the pending FY 2004–2005 approved retirement funding consistent with the court cost increases that had been provided as justification for the additional funding.
2. Defer allocation of any approved FY 2004–2005 funding provided in this program area pending further analysis with a recommendation to be made to the counsel at a later date. Staff would continue discussions with the DOF regarding funding of FY 2004–2005 retirement increases as current year adjustments.
3. Prorate the funding pending in the state budget among the courts with FY 2003–2004 increases (which would include additional funding for two courts that notified us of increases in December when staff updated the budget request). Each court would receive approximately 94.8 percent of their increase.

Increased Charges in County Provided Services

Over \$11.8 million was requested in the BCP for Increased Charges in County Provided Services, for increases effective during FY 2002–2003, 2003–2004, and 2004–2005. The pending State Budget includes \$1.482 million, which represents only those increases that will be effective during FY 2004–2005. The DOF

advised staff that the other increases would have already taken place by the time funding would be provided, and that the courts would have already been absorbing them. These funds should be allocated to those courts experiencing increases in costs FY 2004–2005 that are included in the Spring Proposal.

Recommendation

AOC staff recommends that the Judicial Council allocate funds for Increases in County Provided Services to those courts that have increases occurring in FY 2004–2005 that are included in the Spring Finance Proposal, as indicated in column B of Attachment 1.

The preceding recommendation was approved by the Judicial Council.

Rationale for Recommendation

Since the amount included in the pending State Budget incorporates all of the increases occurring in FY 2004–2005, as included in the requests by the courts, it seems reasonable to allocate these funds to those courts.

Alternative Actions Considered

No alternatives other than that recommended were considered for this item.

Adjustments to Salaries and Benefits for Subordinate Judicial Officers Due to Increases that Occurred in FY 2003–2004 (Action Required)

Funding is included in the pending state budget to pay for the adjustment in the salaries of judges, commissioners, and referees that occurred in FY 2003–2004. These adjustments were made based on the level of increased compensation provided for state employees in that year. While the state provided discretionary funding last year that could be used for increases in trial court employee salaries (at the same level as the increase for state employees), unlike previous years, no funding was provided for the increases to salaries of judges, commissioners, and referees. As a result, the judicial branch had to absorb these costs in FY 2003–2004. If the funding is incorporated in the budget act, the amount for commissioners and referees (\$1.438 million) should be allocated as shown in column C of Attachment 1. Superior court judges receive their salary directly from the AOC, so the funding is not allocated to the courts.

Recommendation

AOC staff recommend that the Judicial Council allocate \$1.438 million for increases in salaries and benefits for subordinate judicial officers that occurred in FY 2003–2004 as indicated in column C of Attachment 1.

The preceding recommendation was approved by the Judicial Council.

Rationale for Recommendation

This is an automatic allocation that requires no detailed analysis by staff. The amount of funding provided was based on the number of subordinate judicial officers and would be allocated to the courts in that manner. The allocation is very straightforward.

Alternative Actions Considered

No alternatives other than that recommended were considered for this item.

Allocation Items Not Requiring Action by the Council as Part of this Report

Security NSIs, Retirement, and Other Benefits

The pending State Budget includes \$28.779 million for increases in this program area. There is also an ongoing reduction in the amount of \$22 million to trial courts' security budgets. A separate report by the Working Group on Court Security and AOC staff will be presented at this meeting containing a discussion of this item and recommendations for consideration by the council.

Court Interpreter Program: Trial Court Staffing Benefits

As of the beginning of FY 2003–2004, there were 550.6 Court Interpreter Pro Tem (CIPT) full-time equivalents (FTEs), which number is expected to grow to 577.0 during FY 2004–2005. The pending State Budget includes \$165,000 to pay benefits for these positions, including: OASDI, Medicare, unemployment insurance, and workers' compensation. The salary costs of these new CIPTs are offset by the funding the court already pays to independent contractor interpreters to perform these services. If this funding is included in the Budget Act, it will become part of Program 45, the dedicated Court Interpreter Program Fund, and will be allocated to the courts based on information provided by them regarding additional CIPTs hired during FY 2004–2005.

Costs of Homicide Trials

The pending State Budget proposes the establishment of a new item of appropriation at the initial level of \$254,000 to provide for direct reimbursement to the trial courts of the cost of extraordinary homicide cases. Previously, only counties could seek reimbursement for these costs. Before State Trial Court Funding, counties would seek reimbursement on behalf of the courts for their expenses. Since the inception of State Trial Court Funding, many courts have had no way to request reimbursement as their counties would no longer seek reimbursement on their behalf or, if they did, they might keep the funding. Courts will submit claims directly to the AOC for reimbursement of qualifying expenditures. The level of funding appropriated each fiscal year for this purpose will be based on an estimate utilizing actual homicide claims from prior fiscal years. The change in this funding process is primarily focused on lessening the impact of extraordinary costs of homicide cases in smaller courts. The actual

guidelines and procedures for the reimbursement of these costs are currently being developed. Recommendations for this process will be presented to the Judicial Council at a future meeting.

Prisoner Hearing Costs

The pending State Budget proposes an augmentation of \$2.556 million to a Trial Court Trust Fund local assistance item of appropriation to reimburse trial courts for the costs to the court of hearings held in prisons. Similar to Costs of Homicide Trials, previously, only counties could seek reimbursement for these costs. Before State Trial Court Funding, counties would seek reimbursement on behalf of the courts for their expenses. Since the inception of State Trial Court Funding, many courts have had no way to request reimbursement as their counties would no longer seek reimbursement on their behalf or, if they did, they might keep the funding. Courts will submit claims directly to the AOC for reimbursement of qualifying expenditures. This item will affect only those courts that have prisons within their county. Again, as with the Costs for Homicide Trials, the guidelines and procedures to be used are in the process of being developed. Recommendations will be presented to the Judicial Council at a future meeting.

Comments from Interested Parties

Trial court budget allocation reports are not subject to the invitation to public comment requirement.

Implementation Requirements and Costs

No additional funds will be sought to implement the recommendations for the action items, other than where staff indicate that they will be working with DOF to try to obtain additional funding during FY 2004–2005 2005 for the full cost of salary and benefit and retirement increases.

Attachment

Recommended Allocation of FY 2004-05 New Trial Court Funding

| Court System | Increased County Charges A | Retirement for FY 2003-04 Increases B | SJO Judicial Salary and Benefit Increases from FY 2003-04 Increase C | Total FY 2004-05 New Funding Allocations |
|-----------------|-------------------------------------|------------------------------------------------|----------------------------------------------------------------------------------------|---------------------------------------------------|
| Alameda | - | 2,104,361 | 52,824 | 2,157,185 |
| Alpine | - | 3,356 | - | 3,356 |
| Amador | - | 16,844 | - | 16,844 |
| Butte | 25,666 | 129,053 | 4,566 | 159,285 |
| Calaveras | - | 11,983 | - | 11,983 |
| Colusa | - | 43,938 | - | 43,938 |
| Contra Costa | 123,571 | 972,734 | 38,779 | 1,135,084 |
| Del Norte | 5,000 | 53,751 | 244 | 58,995 |
| El Dorado | - | 48,985 | 10,976 | 59,961 |
| Fresno | 6,600 | 541,747 | 20,916 | 569,263 |
| Glenn | 3,601 | 33,829 | - | 37,430 |
| Humboldt | - | 312,963 | 2,440 | 315,403 |
| Imperial | 7,892 | - | 2,934 | 10,826 |
| Inyo | - | 45,872 | - | 45,872 |
| Kern | - | 558,835 | 24,417 | 583,252 |
| Kings | 2,421 | - | 3,695 | 6,116 |
| Lake | 5,920 | (4,695) | 1,397 | 2,622 |
| Lassen | - | 32,781 | - | 32,781 |
| Los Angeles | 40,384 | 1,492,046 | 632,221 | 2,164,651 |
| Madera | - | 69,364 | - | 69,364 |
| Marin | - | 275,766 | 14,742 | 290,508 |
| Mariposa | - | 5,296 | - | 5,296 |
| Mendocino | 8,602 | 71,911 | - | 80,513 |
| Merced | - | - | 10,458 | 10,458 |
| Modoc | - | - | - | - |
| Mono | - | - | - | - |
| Monterey | - | (331,523) | 3,513 | (328,010) |
| Napa | 3,250 | - | 5,787 | 9,037 |
| Nevada | - | (71,872) | 3,494 | (68,378) |
| Orange | 88,536 | (42,494) | 114,276 | 160,318 |
| Placer | - | 75,723 | 13,973 | 89,696 |
| Plumas | 28,119 | 13,901 | - | 42,020 |
| Riverside | 161,103 | 645,192 | 61,832 | 868,127 |
| Sacramento | 39,957 | 3,022,195 | 46,814 | 3,108,965 |
| San Benito | - | 49,674 | - | 49,674 |
| San Bernardino | 125,692 | 2,201,756 | 44,064 | 2,371,512 |
| San Diego | 650,881 | 8,957,014 | 83,841 | 9,691,736 |
| San Francisco | - | - | 55,746 | 55,746 |
| San Joaquin | - | 402,448 | 11,326 | 413,774 |
| San Luis Obispo | - | (109,371) | 11,648 | (97,723) |
| San Mateo | 20,530 | (226,154) | 22,673 | (182,951) |
| Santa Barbara | - | 162,720 | 15,116 | 177,836 |
| Santa Clara | 29,668 | 221,620 | 27,948 | 279,236 |
| Santa Cruz | - | - | 9,637 | 9,637 |
| Shasta | - | 22,456 | 4,880 | 27,336 |
| Sierra | - | 9,749 | - | 9,749 |
| Siskiyou | - | 35,615 | 1,782 | 37,397 |
| Solano | 44,327 | 441,113 | 19,540 | 504,980 |
| Sonoma | - | 93,100 | 14,002 | 107,102 |
| Stanislaus | - | - | 10,469 | 10,469 |
| Sutter | 12,822 | 54,274 | - | 67,096 |
| Tehama | - | - | - | - |
| Trinity | - | 13,626 | - | 13,626 |
| Tulare | - | 32,309 | 13,943 | 46,252 |
| Tuolumne | 3,900 | 18,120 | 2,301 | 24,321 |
| Ventura | 43,990 | 68,281 | 11,570 | 123,841 |
| Yolo | - | 222,756 | 7,218 | 229,974 |
| Yuba | - | 50,231 | - | 50,231 |
| Totals: | 1,482,431 | 22,853,179 | 1,438,000 | 25,773,610 |